

### Subpart A—General Provisions

SOURCE: 72 FR 52762, Sept. 17, 2007, unless otherwise noted.

#### § 551.101 General.

(a) The Fair Labor Standards Act of 1938, as amended (referred to as “the Act” or “FLSA”), provides minimum standards for both wages and overtime entitlements, and administrative procedures by which covered worktime must be compensated. Included in the Act are provisions related to child labor, equal pay, and portal-to-portal activities. In addition, the Act exempts specified employees or groups of employees from the application of certain of its provisions and prescribes penalties for the commission of specifically prohibited acts.

(b) This part contains the regulations, criteria, and conditions set forth by the Office of Personnel Management (OPM) as prescribed by the Act, supplements and implements the Act, and must be read in conjunction with it.

(c) OPM’s administration of the Act must comply with the terms of the Act but the law does not require OPM’s regulations to mirror the Department of Labor’s FLSA regulations. OPM’s administration of the Act must be consistent with the Department of Labor’s administration of the Act only to the extent practicable and only to the extent that this consistency is required to maintain compliance with the terms of the Act. For example, while OPM’s executive, administrative, and professional exemption criteria are consistent with the Department of Labor’s exemption criteria, OPM does not apply the highly compensated employee criteria in 29 CFR 541.601 to determine FLSA exemption status.

#### § 551.102 Authority and administration.

Section 3(e)(2) of the Act authorizes the application of the provisions of the Act to any person employed by the Government of the United States, as specified in that section.

(a) *Office of Personnel Management.* Section 4(f) of the Act authorizes the Office of Personnel Management (OPM) to administer the provisions of the Act. OPM is the administrator of the provi-

sions of the Act with respect to any person employed by an agency, except as specified in paragraphs (b), (c), and (d) of this section.

(b) *The Equal Employment Opportunity Commission* administers the equal pay provisions contained in section 6(d) of the Act.

(c) *The Department of Labor* administers the Act for the government of the District of Columbia and the following United States Government entities:

- (1) The Library of Congress;
- (2) The United States Postal Service;
- (3) The Postal Rate Commission; and
- (4) The Tennessee Valley Authority.

(d) *Office of Compliance.* The Congressional Accountability Act of 1995, as amended, sections 1301 *et seq.* of title 2, United States Code, extends rights and protections of the FLSA to employees of the following United States Government entities, and assigns certain administrative responsibilities to the Office of Compliance:

- (1) The United States House of Representatives;
- (2) The United States Senate;
- (3) The Capitol Guide Service;
- (4) The Capitol Police;
- (5) The Congressional Budget Office;
- (6) The Office of the Architect of the Capitol;
- (7) The Office of the Attending Physician; and
- (8) The Office of Compliance.

#### § 551.103 Coverage.

(a) *Covered.* Any employee of an agency who is not specifically excluded by another statute is covered by the Act. This includes any person who is:

- (1) Defined as an employee in section 2105 of title 5, United States Code;
- (2) A civilian employee appointed under other appropriate authority; or
- (3) Suffered or permitted to work by an agency whether or not formally appointed.

(b) *Not covered.* The following persons are not covered by the Act:

- (1) A person appointed under appropriate authority without compensation;
- (2) A trainee;
- (3) A volunteer; or
- (4) A member of the Uniformed Services.